AMENDMENTS TO THE DRAWINGS:

The accompanying Replacement Sheets are for Figures 1 to 3 and replace the original sheets. In Figures 1 to 3, labels have been added. In Figure 2, element 211 has been removed. In Figure 3, a reference to element 30 has been added. No new matter has been added. Approval and entry are respectfully requested.

Attachments: 2 Replacement Sheets.

REMARKS

Claims 17 to 25 are added, and therefore claims 9 to 25 are now pending in the present application.

It is respectfully submitted that all of the presently pending claims are allowable, and reconsideration is respectfully requested.

Applicants thank the Examiner for acknowledging the claim for foreign priority, and for indicating that all certified copies of the priority documents have been received from the International Bureau.

As to the objection as to the IDS, a Supplemental Information Disclosure Statement was e-filed on October 14, 2009, and included courtesy copies of the relevant references listed in the prior Information Disclosure Statements. It is therefore respectfully requested that the objection be withdrawn and that the references be considered and made of record.

The drawings were objected to because of some asserted confusion as to elements 208, 211 and 30. While the objections may not be agreed with, to facilitate matters, the drawings now include labels. Replacement Figure 2 makes clear that in method step 208, the noise threshold is reduced for the pre-crash algorithm and the pre-crash algorithm is started. In method step 210, a triggering of the occupant restraint arrangement is determined based on the pre-crash algorithm that was started, and for which the noise threshold was reduced, in method step 208. Method step 210 does not occur until after the noise threshold is reduced for the pre-crash algorithm and the pre-crash algorithm is started in method step 208. To further clarify the drawings, item 211 has been removed from Figure 2 and the specification has been rewritten. In addition, a reference to item 30 in Figure 3 has been added. No new matter is added and supported is provided by the application, including the specification. Approval and entry are respectfully requested.

Claims 9 to 16 were rejected under 35 U.S.C. 112, second paragraph, as indefinite.

While the rejections may not be agreed with, to facilitate matters, claim 9 has been rewritten to better clarify the claimed subject matter. Claim 9, as presented, includes the feature of *a pre-crash system having a pre-crash algorithm that takes into account signals from the surroundings sensor suite for triggering an occupant protection arrangement*. As recognized by the Office Action, the pre-crash algorithm may be designed as "an algorithm

for directing some action before an impact." For example, the pre-crash algorithm may determine triggering times for an occupant protection arrangement by taking into account an impact time predicted by a pre-crash system. The presently claimed subject matter allows the pre-crash algorithm to take into account an improved impact time. The improved impact time is calculated by a pedestrian protection system based on the impact time predicted by the pre-crash system. The improved impact time may be supplied to the pre-crash system before or directly after impact. Either way, the pre-crash algorithm may use the improved impact time to determine triggering times as it would otherwise use the impact time predicted only by the pre-crash system. That is, the pre-crash algorithm still functions as a pre-crash algorithm even if it is not supplied the impact time until directly after impact. Withdrawal of the indefiniteness rejections is therefore respectfully requested.

Claim 9 was rejected under 35 U.S.C. 112, first paragraph, as to enablement as specifically asserted as to the fourth and fifth signals.

While the rejections may not be agreed with, to facilitate matters, claim 9 has been rewritten to better clarify the claimed subject matter. In particular, as to the triggering of a generic protection device as a function of the fourth and fifth signals, claim 9, as presented, includes the feature in which *the personal protection device represents at least one of the occupant protection arrangement and the pedestrian protection arrangement*. Claim 9, as presented, makes plain that the personal protection device represents at least one of the occupant protection arrangement and the pedestrian protection arrangement. As Figure 2 also makes clear, either the occupant protection arrangement or the pedestrian protection arrangement is triggered as a function of <u>both</u> a signal of the pedestrian protection algorithm <u>and</u> a signal of the pre-crash algorithm. Withdrawal of the enablement rejections is therefore respectfully requested.

Claims 9 to 16 were rejected under 35 U.S.C. 112, first paragraph, as to the written description requirement.

While the rejections may not be agreed with, to facilitate matters, claim 9 has been rewritten to better clarify the claimed subject matter. In particular, claim 9, as presented, includes the feature in which *a pre-crash system having a pre-crash algorithm that takes into account signals from the surroundings sensor suite for triggering an occupant protection arrangement; and a pedestrian protection system having a pedestrian protection algorithm*

that takes into account signals from the contact sensor suite for triggering a pedestrian protection arrangement. Claim 9, as presented, makes clear that a pre-crash algorithm is an algorithm that takes into account signals from a surroundings sensor suite for triggering an occupant protection arrangement and a pedestrian protection algorithm is an algorithm that takes into account signals from a contact sensor suite for triggering a pedestrian protection arrangement. As disclosed in the present specification (including, for example at page 2, line 28, to page 3, line 6), such pre-crash algorithms and pedestrian protection algorithms are understood. Withdrawal of the written description rejections is therefore respectfully requested.

Claims 9 to 16 were rejected under 35 U.S.C. 112, first paragraph, as to enablement.

While the rejections may not be agreed with, to facilitate matters, claim 9 has been rewritten to better clarify the claimed subject matter. In particular, claim 9, as presented, includes the feature of *a pre-crash system having a pre-crash algorithm that takes into account signals from the surroundings sensor suite for triggering an occupant protection arrangement; and a pedestrian protection system having a pedestrian protection algorithm that takes into account signals from the contact sensor suite for triggering a pedestrian protection arrangement*. Claim 9, as presented, makes plain that a pre-crash algorithm is an algorithm that takes into account signals from a surroundings sensor suite for triggering a occupant protection arrangement and a pedestrian protection algorithm is an algorithm that takes into account signals from a contact sensor suite for triggering a pedestrian protection arrangement. As disclosed in the present specification, for example at page 2, line 28, to page 3, line 6, such pre-crash algorithms and pedestrian protection algorithms are understood. Withdrawal of the enablement rejections is therefore respectfully requested.

Claims 9 to 16 were rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,721,659 ("Stopczynski").

As regards the anticipation rejections of the claims, to reject a claim under 35 U.S.C. § 102(e), the Office must demonstrate that each and every claim feature is identically described or contained in a single prior art reference. (See *Scripps Clinic & Research Foundation v. Genentech, Inc.*, 18 U.S.P.Q.2d 1001, 1010 (Fed. Cir. 1991)). As explained herein, it is respectfully submitted that the Office Action does not meet this standard, for example, as to all of the features of the claims. Still further, not only must each of the claim

features be identically described, an anticipatory reference must also enable a person having ordinary skill in the art to practice the claimed subject matter. (See *Akzo, N.V. v. U.S.I.T.C.*, 1 U.S.P.Q.2d 1241, 1245 (Fed. Cir. 1986)).

As further regards the anticipation rejections, to the extent that the Office Action may be relying on the inherency doctrine, it is respectfully submitted that to rely on inherency, the Office must provide a "basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristics *necessarily* flows from the teachings of the applied art." (See M.P.E.P. § 2112; emphasis in original; and see *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Int'f. 1990)). Thus, the M.P.E.P. and the case law make clear that simply because a certain result or characteristic may occur in the prior art does not establish the inherency of that result or characteristic.

While the rejection of previously presented claim 9 as being anticipated by the "Stopczynski" reference may not be agreed with, to facilitate matters, claim 9 has been rewritten to clarify the recited subject matter.

Claim 9, as presented, includes the feature of *a pre-crash system having a pre-crash algorithm that takes into account signals from the surroundings sensor suite for triggering an occupant protection arrangement; a pedestrian protection system having a pedestrian protection algorithm that takes into account signals from the contact sensor suite for triggering a pedestrian protection arrangement; at least one arrangement for influencing the pedestrian protection algorithm as a function of a first signal of the surroundings sensor suite, for influencing the pre-crash algorithm as a function of a second signal of the pedestrian protection algorithm that takes into account a third signal of the contact sensor suite, and for triggering the personal protection device as a function of a fourth signal of the pedestrian protection algorithm and a fifth signal of the pre-crash algorithm; in which the personal protection device represents at least one of the occupant protection arrangement and the pedestrian protection arrangement*.

Even if the "Stopczynski" reference did refer to a passive countermeasure controller that may activate some type of occupant protection means and some type of pedestrian protection means, the "Stopczynski" reference does not disclose (nor even suggest) *a pre-crash algorithm that is influenced as a function of a signal of a pedestrian protection algorithm that takes into account a signal of a surrounding sensor suite and a signal of a contact sensor suite* nor *a personal protection device that is triggered as a function of a signal of a pedestrian protection algorithm and a signal of a pre-crash algorithm*.

For example, even if the method referred to by the "Stopczynski" reference may use an algorithm to activate the occupant protection means and may use a separate algorithm to activate the pedestrian protection means, the "Stopczynski" reference does not disclose (nor even suggest) any interaction between these two algorithms. In particular, the "Stopczynki" reference does not disclose (nor even suggest) *a pre-crash algorithm that is influenced as a function of a signal of a pedestrian protection algorithm* nor *a personal protection device that is triggered as a function of signals from both a pre-crash algorithm and a pedestrian protection algorithm*.

Accordingly, the "Stopczynski" reference does not anticipate claim 1.

For at least the reasons explained above, claim 9 and its dependent claims 10 to 16 are allowable over the "Stopczynski" reference.

Claims 17 to 25 do not add new matter and are supported by the present application, including the specification. Claims 17 to 25 depend from claim 9 and they are therefore allowable at least for the same reasons, and for the further reason that they include further combinations of features which are not disclosed or suggested by the applied references.

In summary, all of pending claims 9 to 16 are allowable.

CONCLUSION

In view of the foregoing, it is respectfully submitted that all pending claims 9 to 16 are in condition for allowance. It is therefore respectfully requested that the rejections (and any objections) be withdrawn. Since all issues raised by the Examiner have been addressed, an early and favorable action on the merits is respectfully requested.

Respectfully submitted,

KENYON & KENYON LLP

Dated: 11/25/2009 By: _____

Gerard A. Messina
Reg. No. 35,952
One Broadway
New York, NY 10004
(212) 425-7200

CUSTOMER NO. 26646